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**Datasheet for the decision
of 18 June 2014**

Case Number: T 0295/13 - 3.5.04
Application Number: 06120015.0
Publication Number: 1761052
IPC: H04N5/775
Language of the proceedings: EN

Title of invention:

Media receiving apparatus, media system having the same, and control methods thereof

Applicant:

Samsung Electronics Co., Ltd.

Headword:

Relevant legal provisions:

EPC 1973 Art. 54(1), 54(2), 87(4)
EPC Art. 54(3)

Keyword:

Priority - (no)
Novelty - (no)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 0295/13 - 3.5.04

**D E C I S I O N
of Technical Board of Appeal 3.5.04
of 18 June 2014**

Appellant: Samsung Electronics Co., Ltd.
(Applicant) 129, Samsung-ro
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 21 September
2012 refusing European patent application
No. 06120015.0 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman F. Edlinger
Members: R. Gerdes
T. Karamanli

Summary of Facts and Submissions

I. The appeal is directed against the decision to refuse European patent application No. 06 120 015.0, published as EP 1 761 052 A2.

II. In oral proceedings before the examining division, the applicant was informed that the claims of the main and first auxiliary requests filed with a letter dated 6 February 2012 were not regarded as allowable because their subject-matter lacked novelty in view of the following document:

D4: WO 2005/098589 A1.

The applicant maintained these requests and requested grant of a patent on the basis of amended claims according to a second auxiliary request filed during the oral proceedings. The chairperson announced at the end of the oral proceedings that the examining division intended to propose the grant of a patent on the basis of the claims according to the second auxiliary request.

III. On 28 March 2012 the examining division issued a communication according to Rule 71(3) EPC informing the applicant that it intended to grant a patent on the basis of the claims according to the second auxiliary request.

IV. The applicant replied by letter, dated 19 July 2012, stating that it wished to maintain the claims of the first auxiliary request.

V. The examining division refused the patent application, on the grounds that the subject-matter of claim 1 of

- the applicant's first auxiliary request lacked novelty in view of D4 which was considered to be comprised in the state of the art, pursuant to Article 54(3) EPC.
- VI. The applicant appealed against this decision. With the statement of grounds of appeal the appellant submitted claims of a sole request corresponding to those of the first auxiliary request underlying the decision under appeal. The appellant (implicitly) requested that the decision under appeal be set aside and that a patent be granted according to the sole request. As a precaution, oral proceedings were requested.
- VII. In a communication annexed to a summons to oral proceedings the board indicated inter alia that it considered the reasoning in the decision under appeal to be correct as far as the novelty-destroying disclosure of D4 was concerned. The board additionally noted that D4 formed state of the art under Article 54(2) EPC and not under Article 54(3) EPC because the subject-matter of claim 1 of the appellant's sole request was not entitled to priority from Korean application KR20050082611.
- VIII. With letter dated 16 April 2014 the appellant withdrew its request for oral proceedings and requested that a written decision be issued. Further submissions were not presented.
- IX. Claim 1 of the sole request reads as follows:
- "A media receiving apparatus which is operable to process a copy-protected media signal received from an external media source (100), comprising:
an interface (210) for connecting with an external media source (100); and

an authentication processor (221) for generating connection authentication data and for transmitting the connection authentication data through the interface (210) in reply to a request of the external media source (100); and characterised by comprising a controller (270) for determining whether an authentication with the external media source (100) is erroneous and for providing an authentication error signal to the external media source (100) while the media receiving apparatus is physically connected to the external media source when an authentication error occurs whereby the external media source (100) recommences the authentication; and wherein the interface (210) comprises a connection detection pin for connection with the external media source (100), and the controller (270) is operable to set the connection detection pin to a low level for a period of time when the authentication error occurs."

- X. The appellant's arguments relating to document D4 in the statement of grounds can be summarised as follows.

The authentication error signal of the claimed invention was different from the HPD signal in D4. Authentication in D4 was implemented after the HPD signal was generated, and the HPD signal was "for merely confirming connection between the host and the display apparatus in order to implement the authentication". According to the invention an authentication error signal "is the configuration which is transmitted from a media receiving apparatus to an external media source so that the external media source recommences the authentication 'when an authentication error occurs'" (page 27, lines 19 and 20 and 26).

In addition, according to the claimed invention the connection detection pin was set to a low level for a period of time when the authentication error occurs. In contrast the HPD pin in D4 was irrelevant to the authentication error.

Reasons for the Decision

1. The appeal is admissible.

Relevance of D4 as prior art under Article 54(2) EPC 1973

2. Article 87(4) EPC 1973 specifies that a subsequent application for the same subject-matter as a previous first application and filed in or in respect of the same State shall be considered as the first application for the purposes of determining priority, provided that, at the date of filing the subsequent application, the previous application has been withdrawn, abandoned or refused, without being open to public inspection and without leaving any rights outstanding, and has not served as a basis for claiming a right of priority. The previous application may not thereafter serve as a basis for claiming a right of priority.

- 2.1 The present application was filed on 1 September 2006 and claims priority of Korean application KR 20050082611 filed on 6 September 2005. D4 is an international application that was filed by the same applicant as the present application on 5 November 2004 and published on 20 October 2005. D4 validly claims priority of Korean application KR 20040024567 filed on 9 April 2004.

Hence, this latter application KR 20040024567 is a previous application that was filed by the same applicant in the same State as the subsequent application KR 20050082611 of which priority is claimed in respect of the present application. Both Korean applications disclose the subject-matter of claim 1 of the present application. Since the previous application has served as a basis for claiming a right of priority, the subsequent Korean application KR 20050082611 cannot be considered the first application for the purposes of determining priority as far as the subject-matter of claim 1 of the present application is concerned (Article 87(4) EPC 1973). Hence, the priority of Korean application KR 20050082611 claimed in respect of the subject-matter of claim 1 of the present application is invalid.

- 2.2 As a consequence of the loss of the priority claim and the fact that D4 was published before the filing date of the present application, D4 is comprised in the state of the art under Article 54(2) EPC 1973 as far as the subject-matter of claim 1 of the present application is concerned. Thus, the board disagrees with the finding of the examining division that the content of D4 is considered to be comprised in the state of the art, pursuant to Article 54(3) EPC.

Novelty, Article 54(1) and (2) EPC 1973

3. D4 discloses a media receiving apparatus which is operable to process a copy-protected media signal received from an external media source (abstract and figures 3 and 4; page 10, line 18 to page 11, line 2), comprising:
an interface for connecting with an external media source (figure 3: 32); and

an authentication processor for generating connection authentication data and for transmitting the connection authentication data through the interface in reply to a request of the external media source (figure 3: 36); and

comprising a controller for determining whether an authentication with the external media source is erroneous and for providing an authentication error signal to the external media source while the media receiving apparatus is physically connected to the external media source when an authentication error occurs whereby the external media source recommences the authentication (figures 3 and 4; page 10, line 18 to page 11, line 2); and

wherein the interface comprises a connection detection pin for connection with the external media source, and the controller is operable to set the connection detection pin to a low level for a period of time when the authentication error occurs (page 10, lines 21 to 24).

4. The appellant's arguments did not convince the board.

The passage on page 10, line 18 to page 11, line 2 indicates that the low level signal on the HPD line is generated after authentication. Hence, the media receiving apparatus of D4 is not restricted to only generating the HPD signal before authentication as stated by the appellant. The board also notes that the same passage of D4 refers explicitly to the case that "although the display apparatus 30 is already authenticated by the HDCP, there may occur a HDCP authentication error". Also the fact that the authentication error signal may be transmitted via a separate port of the controller supports this understanding (D4, page 11, lines 6 to 10).

The passage on page 13, lines 3 to 9 implies that the HPD signal may be used as an active high or active low signal. In addition, the passage on page 10, line 18 to page 11, line 2 indicates that the display controller sets the connection detection pin (see, in particular, page 10, lines 21 to 24). Hence, D4 discloses that the connection detection pin may be set to a low level for a period of time when the authentication error occurs.

5. In view of the above, the subject-matter of claim 1 of the appellant's sole request is not new (Article 54(1) and (2) EPC 1973).

Conclusion

6. It follows that the appellant's sole request is not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

F. Edlinger

Decision electronically authenticated